

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Merchants Traffic Association )  
 Independent Sewer Pipe Co. )  
 Pacific Sewer Pipe Co. )  
 St. Louis Fire Brick & Clay Co. )  
 Inglewood Brick & Tile Co. )  
 Complainants, )  
 Corona Chamber of Commerce, )  
 ✓ Intervenor. )  
 vs. )  
 The Atchison, Topeka & Santa Fe )  
 Railway - Coast Lines, )  
 Southern Pacific Company. )  
 Defendants. )

ORIGINAL

Case No. 424

APPEARANCES

E. A. Stewart, for the complainants.  
 E. W. Camp, for The Atchison, Topeka & Santa Fe  
 Railway - Coast Lines  
 Geo. W. Squires, for the Southern Pacific Co.

GORDON, Commissioner:

O P I N I O N

This complaint was made by and in the behalf of the  
 manufacturers of clay products named in the title, whose  
 factories are located at and in the vicinity of Los Angeles and  
 who largely secure the clays used therein from clay pits located  
 at Alberhill and Corona. Two of the original complainants, the  
 St. Louis Fire Brick & Clay Company and the Inglewood Brick &  
 Tile Company, were granted permission upon application to with-  
 draw from this proceeding, and the Corona Chamber of Commerce  
 was granted permission to intervene.

The complainants allege as unjust, unreasonable and  
 discriminatory the rates maintained and charged by the Atchison,  
 Topeka & Santa Fe Railway - Coast Lines, for the transportation  
 of clay in carload lots from Elsinore, Alberhill and Corona to

Los Angeles and Los Nietos, and from Elsinore and Alberhill to Corona and Inglewood, and the rates maintained and charged by the Southern Pacific Company for the transportation of clay in carload lots from Los Angeles to Tropic. The Commission is asked to establish lower rates in the place of those rates also to establish a through route and a joint rate for the transportation of clay in carload quantities from Alberhill and Corona to Tropic, and to make all such rates retroactive to June 30, 1913.

The Inglewood Brick & Tile Company, is the only company interested in the rates on clay to Inglewood and as it has withdrawn from this proceeding, no consideration will be given herein to rates to that point and as no clay is produced and shipped from Elsinore further consideration of that point as a point of origin should be dismissed.

It was agreed by the representatives of all the parties to this proceeding that the record in Case 385, San Francisco Chamber of Commerce vs Southern Pacific Company, and Case 360, Stone Canon Coal Co. vs Southern Pacific Co. be considered in evidence in this proceeding and insofar as it has a bearing upon the issues herein involved it will be so considered. In those cases, however, the Southern Pacific Company was the defendant, while in this proceeding the Atchison, Topeka & Santa Fe Railway - Coast Lines, is the principal defendant and the conditions obtaining on the latter line with respect to the transportation of clay have not been shown to be parallel with the conditions surrounding the transportation of the commodities, involved in the cases to which reference is made.

The complainants abandoned an attempt to show that the rates herein involved on clay were excessive in that such rates contributed more than their proportionate share of the profits of the carrier, considering the value of the property devoted to the service of the public because of the obvious difficulties in the

way of ascertaining the net return from transporting a single commodity over a line of road or a part thereof and to sustain their allegations complainants depended largely on a number of comparisons of the rates on clay the subject of this complaint with rates charged thereon, between other points, or upon similar commodities between the same and other points.

The following statement taken from complainants Exhibit No. 1 and the testimony of the defendants in part indicates the various rates on which clay in carload quantities moved between representative points on the Atchison, Topeka & Santa Fe Railway-Coast Lines, in California, and the per ton mile, per car mile and per car revenue thereon:

From	To	Dis- tance in Miles	Rate Per Ton 2000 lbs.	Rate Per Ton Per Mile	Rate Per Car Mile Based on Average Loading 88,000 Pounds	Earnings Per Car Based on Actual Average Loading of 88,000 Pounds	Movement During Year Ending June 30, 1913.	Cars	Tons
Alberhill	Amboy	211	\$1.50	7.1	31.42	\$ 66.00	3		132
"	Central Ave.	104	1.50	14.4	63.46	66.00	142		6258
"	Corona	55	0.85	15.4	67.99	37.40	200		8820
"	Inglewood	110	1.60	14.5	64.00	70.40	18		792
"	Los Angeles	104	1.50	14.5	63.46	66.00	1484		65288
"	Los Nietos	91	1.50	16.4	72.52	66.00	70		3100
"	National City	180	2.00	10.6	48.88	88.00	6		264
"	Pasadena	96	1.50	15.6	68.75	66.00	1		44
Dryman	Los Angeles	115	1.50	13.0	57.39	66.00	1		40
"	San Francisco	478	3.00	6.3	27.61	132.00	3		100
Corona	Los Angeles	48	1.25	26.6	114.58	55.00	4		162
"	Los Nietos	36	1.25	34.7	152.77	55.00	6		185
"	Inglewood	55	1.60	25.8	128.00	70.40	1		20
Fleming	Colton	26	.35	13.4	59.23	15.40	947		45245
Ladrillo	National City	14	.40	28.5	125.71	17.60	67		3388
"	San Diego	9	.40	44.4	195.55	17.60	688		36344

Complainants directed particular attention to the rates from Alberhill to Amboy and from Fleming to Colton and

insisted that these rates of the carrier should form the measure of the rates involved in this proceeding. The defendant urged that the rate from Alberhill to Amboy was made, first - because the clay traffic to Amboy helped to give a load part way for empty coal-car equipment returning to the coal mines located on its lines at Gallup, N. M.; second - because a subsequent or second haul was received by it on the plaster manufactured partly from the clay at Amboy; and third - because "that was the highest freight rate they (the manufacturers) could have paid".

In connection with the reason first set out it should be noted that Alberhill is on a branch line over a part of which no traffic other than clay moves and if in a given case empty coal cars returning to Gallup, N. M., were furnished to transport the clay from Alberhill to Amboy, such cars would have to be placed in a train of the empty cars regularly used in this service and diverted from the direct route of return to the clay pits located on the branch line. Further, a witness for the defendant testified that the clay moved only in cars specially fitted for that service, exclusively, and other cars were not used "because if any rock \*\*\* or other commodities were to be handled in these cars and mixed up with the clay it would make the clay unsuitable for the purpose for which they use it", and it was also testified that the shipments which have moved into Amboy have been generally loaded in the regular clay cars.

In connection with the carrier's contention that a lower rate was made to Amboy on clay than would have been made thereto had not the carrier reason to expect a subsequent haul on the products made in part therefrom, the testimony of the complainants that the clay products manufactured in part from the clay are distributed throughout Southern California, Arizona, and in some cases shipments have been made to New Mexico, must be considered and if it is proper to consider a "second Haul" in adjusting the rates to Amboy, then the same consideration should be given to the second haul in adjusting the rates to Los Angeles. The rate of \$1.50 per ton was established from Alberhill to Amboy at the "request"

of the manufacturer located at the latter place, according to his testimony and for the purpose of getting Alberhill clay for experimental purposes and to determine if that clay would produce satisfactory results in the manufacture of plaster, and therefore it could hardly be said that the rate was essential to the operation of the plant at the time it was established, or that it was at that time the highest rate that the manufacturer could have paid.

The rate of 35¢ per ton from Fleming to Colton, a distance of 26 miles, was justified on the same grounds practically as the rate from Alberhill to Amboy, that is, that it was necessary that such a rate be established in order that the clay might move and because a subsequent haul was contemplated on the cement manufactured therefrom, to which the preceding remarks will apply. It is also urged that the grade of clay moving under this rate is inferior to that of the clay moving from Alberhill to the clay manufactories herein interested, but inasmuch as there is no limitation as to the application of the rate and any clay whatsoever might move thereon regardless of its quality, and also that it is doubtful if the difference between the clays is sufficient to justify a difference in rating, it appears that this contention is not well taken.

The complainants alleged that the rate of 85¢ charged and maintained by the Atchison, Topeka & Santa Fe Railway - Coast Lines, on clay in carload quantities from Alberhill to Corona, a distance of 55 miles, when compared with the rate of \$1.25 per ton on the same commodity from Corona to Los Nietos and Los Angeles, for a distance of 36 and 48 miles respectively, indicates the inequity of the adjustment of the latter rates. The carrier states that the rate was established to induce the factories at Corona to use the clay from Alberhill rather than the clay from the pits located adjacent to the factories at Corona, and which could be handled by wagon into the plants, and that the rate in the judgment of the carrier was too low, using the rates from Corona to Los Angeles as a measure, which very rate the complainants, by the comparison, seek

to show is too high. The transportation conditions are more favorable in the case of a shipment from Corona to Los Angeles than from Alberhill to Corona, special train service being required in the latter haul, and to meet the contention of the complainants that the rate from Corona to Los Angeles is established as unreasonable by this comparison it is not enough for the carrier to say that competition justifies or requires the lower rate from Alberhill to Corona. Something as to the extent and effect of the competition should be shown,- the opinion of the carrier that the rate from Alberhill to Corona was too low, it was admitted, was formed without regard to the cost of the service or what profit the rate afforded.

Other rates established by the Atchison, Topeka & Santa Fe Railway - Coast Lines, were offered in comparison with the rates, the subject of the complaint, such as the rate of \$1.00 per ton for transporting lime rock in carload quantities from Oro Grande to Santa Ana, a distance of approximately 100 miles, the distance being approximately the same as the distance from Alberhill to Los Angeles and the value of the commodity being approximately the same. However, the service is a main line one and does not involve a special service, as is involved in the case of the transportation of clay from Alberhill to Los Angeles. The complainants also offered in comparison the rate of \$1.00 per ton charged by the Atchison, Topeka & Santa Fe Railway - Coast Lines, for transporting common brick, in carload quantities, from Corona to Claremont, a distance of 53 miles. The value of the brick is somewhat in excess of the value of the clay and the rate somewhat less than the rate on clay from Corona to Los Angeles, which is \$1.25 per ton for a distance of 48 miles. Defendant contends that this rate should not be used in comparison with the rates on clay for a similar distance, for the reason that it was established under market competitive conditions, that is, that it was put on so as to enable the brick manufacturer at Corona to compete at Claremont with brick manufactured at other points and shipped thereto.

Comparison was specially made also with the rate of 60¢ per ton on clay in carload quantities maintained by the Atchison, Topeka & Santa Fe Railway - Coast Lines, from Farr to National City, a distance of 41 miles, similar to the distance from Corona to Los Nietos and Los Angeles, between which points a rate of \$1.25 is maintained and charged.

The complainants also made comparisons with the rates applying on crushed rock, sand and gravel between various points in Southern California, but I do not believe that the rates on these commodities should in fairness be compared with the rates on clay, for the reasons set out in this Commission's decision in Case 385, San Francisco Chamber of Commerce vs Southern Pacific Company, the rates on crushed rock, sand and gravel between Southern California points appearing to have been adjusted in contemplation of the same necessities as the rates on these commodities in Northern California.

Following is a statement showing the car mile earnings of the Atchison, Topeka & Santa Fe Railway - Coast Lines, for the last nine months of the fiscal year ending June 30, 1913, for certain selected commodities and for distances embracing those between the various points involved in this matter:

<u>Distances</u>	<u>Per Car Mile Earnings in Cents</u>						
	Asphaltum	Brick	Canned Goods	Cement	Coal	Crushed Rock	
From 26 to 50 Miles	1.05	.65	1.28	.79	.69	.46	
" 51 to 100 "	.61	.41	.44	.79	.36	.32	
" 101 to 150 "	.57	.44	.40	.53	.32	.27	
" 201 to 250 "	.10	.21	.55	.63	-	-	
	Deciduous Fruit	Flour	Grain	Lumber	Sand & Gravel	Wine	
From 26 to 50 Miles	.52	.90	.85	.77	.40	.70	
" 51 to 100 "	.54	.74	.61	.62	.29	.28	
" 101 to 150 "	.31	.36	.40	.39	.53	.27	
" 201 to 250 "	.31	.41	.27	.43	-	.41	

The rate per car mile on clay, based on average loading of 88,000 pounds per car from Corona to Los Nietos for a distance of 36 miles is 152.77 cents and from Corona to Los Angeles for a

distance of 48 miles is 114.58 cents. The former is considerably in excess of the car mile earnings on any commodity shown on the above statement and the latter in excess of the car mile earnings on every commodity shown in table except Canned Goods, for similar distances. The per car mile earnings on Clay of 67.99 cents from Alberhill to Corona, a distance of 55 miles, and of 72.52 cents from Alberhill to Los Nietos, a distance of 91 miles, likewise exceeds the car mile earnings on the commodities shown in the table for distances from 51 to 100 miles, except the earnings on Cement and Flour and it is also shown that the per car mile earnings on clay of 63.46 cents from Alberhill to Los Angeles, a distance of 104 miles, are considerably greater than the per car mile earnings on any of the commodities shown in table for distances between 101 to 150 miles. The shipments of clay from Alberhill amount to approximately 6 cars daily and comprise the only traffic on the part of the line from Elsinore to Alberhill, and because of the grade thereon but four loaded cars can be handled from Alberhill to Elsinore by the type of engine in service on that branch. It is therefore necessary for the engine and crew to make two trips between Alberhill and Elsinore, a distance of approximately 6 miles to haul 6 cars from the clay pits of Alberhill to Elsinore, the point at which the shipments are billed. These conditions contribute greatly to the cost of transporting the clay from Alberhill and entitle the traffic therefrom to rates higher than would ordinarily be allowed were the conditions such as not to require any special service, but in regard to the relative cost of the service from Alberhill to Amboy and from Alberhill to Los Angeles, a witness for the carrier stated that the average unit of cost in the former case was greater.

The same rates are maintained by the Atchison, Topeka & Santa Fe Railway - Coast Lines, from Alberhill and Corona to Los Nietos as to Los Angeles, and in support of the adjustment the defendant carrier contends that its intention was to keep all manufacturers of clay products in this district on a parity as to



transportation rates and because there is so little difference in distance, that lower rates to Los Nietos are not justified. If this statement is correct there appears no reason why Inglewood, a point six miles more distant than Los Angeles from the clay pits, should be given a rate originally 50 cents and recently, since this complaint was filed, 10 cents higher than the rate to Los Angeles; the Los Angeles rate, however, being charged to Los Nietos, a point 12 miles nearer to the clay pits. If the rule were properly applicable in the latter case, it appears that it should also be applied in the case of the rates to Inglewood and the carrier's attempted justification of this condition, by stating that the Los Angeles rate plus switching charge at that point practically equalizes the rate to Inglewood, does not meet the situation, for the reason that the average loading of clay per car is 44 tons and therefore the line charge per car to Inglewood would be practically \$4.40 greater than the line charge to Los Angeles and \$1.00 per car greater than the aggregate of the line charge plus the switching charge to Los Angeles. It is likewise a fact that the \$1.50 rate applies to team tracks at Los Angeles without additional switching charges. The carrier in adjusting these rates given to Los Angeles the advantage to which its location, in relation to Inglewood, entitles it, and properly therefore, should not deny the same consideration to Los Nietos.

In comparison with the rate of 45 cents per ton charged and collected by the Southern Pacific Company for transporting carloads of clay from Los Angeles to Tropic, complainants directed attention to the rate of \$2.50 per ton charged by the Southern Pacific Company for transporting crushed rock, bags, or sulphur, in straight carloads, from Los Angeles to Dodsworth, and the rate of \$5.00 per car for transporting freight regardless of the classification, except brick, coal and lumber, in carload quantities, from Los Angeles to Shorb. The distance from Los Angeles to Dodsworth or Shorb is six miles or one mile in excess of the distance from Los Angeles to Tropic. The carrier contends that the rates to Dodsworth and Shorb are not reasonable in and

of themselves and were forced upon it by competition. To further indicate the unreasonableness of the rate of 45 cents per ton on clay, carload quantities, from Los Angeles to Tropic, complainants rely upon a comparison made with a rate of 35 cents per ton charged by the Pacific Electric Railway for transporting clay from Los Angeles to Sunset, a distance of 17 miles, in justification of which it is stated that the Pacific Electric Railway was forced to establish such a rate or forego the business as the manufacturers otherwise would not have rebuilt its plant on Pacific Electric Railway's line after it had been destroyed by fire. Other comparisons were offered tending to show the rate of 45 cents to be unreasonable and unjust. There is at the present time no commodity rate in effect on clay from Los Angeles to Tropic, the rate of 45 cents per ton herein mentioned being the Class E rate between those two points, although the movement of clay from Los Angeles to Tropic for the twelve months ending June 30, 1913, was approximately 5,000 tons or a small amount in excess of 400 tons per month and quite steady throughout the year. In view of these facts I am inclined to the opinion that a commodity rate should be established for the transportation of clay, in carload quantities, from Los Angeles to Tropic.

After a full consideration of all of these matters I find as a fact that the rates charged and collected by the Atchison, Topeka & Santa Fe Railway - Coast Lines, for the transportation of clay in carload quantities from Alberhill and Corona to Los Angeles and Los Nietos, are unreasonable, unjust and excessive, and that just rates on clay in carload quantities of 60,000 pounds or more would be:

From	To	Rate in Cents Per ton of 2000 pounds.
Alberhill	Los Angeles	1.25
Corona	Los Angeles	.70
Alberhill	Los Nietos	1.10
Corona	Los Nietos	.55

I further find as a fact that the rate of 45¢ per ton charged and collected by the Southern Pacific Company for the

transportation of clay, in carload quantities, from Los Angeles to Tropic is unreasonable, unjust and excessive and that a reasonable and just rate on clay, in carload quantities of 60,000 pounds or more, from Los Angeles to Tropic is 30 cents per ton of 2000 lbs.

I am of the opinion that the evidence does not sustain the allegations of the complainants that the rate of 85 cents per ton charged and collected by the Atchison, Topeka & Santa Fe Railway - Coast Lines, for the transportation of clay, in carload quantities, from Alberhill to Corona is unjust, unreasonable and excessive, and I am also of the opinion that the complainants failed to show that any material discrimination has been brought about by the maintenance of the present rates, or that the present method of handling shipments from Alberhill to Tropic on the combination of locals is unsatisfactory other than as to the volume of the combined rates, or that public necessity demands the establishment of a through route and joint rate from Alberhill and Corona to Tropic, and I therefore recommend that as to these matters the complaint should be dismissed.

The Commission is asked to make the rates herein found to be just and reasonable retroactive to June 30, 1913. This the Commission is not empowered to do under the provisions of the Public Utilities Act. It may under the provisions of Section 71 of that Act require that reparation be made where it is found after investigation that the utility has charged an excessive or discriminatory amount provided no discrimination will result from such reparation. However, the complainants in this case have not shown that they were damaged by the charging of the present rates for the transportation of clay or that the freight charges paid thereon were not included in the price at which the clay products were sold to the consumers, and I am satisfied that it would be fairer to all parties to apply the proposed reduction to the future only.

I therefore submit the following form of order.

O R D E R

The complaint and answer having been filed in the above entitled proceeding and a public hearing having been held thereon and a full investigation of the matters and things involved having been had <sup>and</sup> the Commission having made the findings of fact which are contained in the opinion which precedes this order, on which findings the order in this case is based,

IT IS HEREBY ORDERED that the Atchison, Topeka & Santa Fe Railway - Coast Lines, publish and file in a tariff with this Commission to become effective twenty (20) days from date of this order the following rates for the transportation of clay in car-load lots of 60,000 lbs. or more:

From	To	Rate in Cents per ton of 2000 lbs.
Alberhill	Los Angeles	\$1.25
Corona	Los Angeles	.70
Alberhill	Los Nietos	1.10
Corona	Los Nietos	.55

which rates are found to be just and reasonable and are hereby established as just and reasonable rates to be charged, and

IT IS FURTHER ORDERED that the Southern Pacific Company publish and file in a tariff with this Commission to become effective twenty (20) days from date of this order, a rate of 30¢ per ton of 2000 lbs. for the transportation of clay in carload lots of 60,000 lbs. or more from Los Angeles to Tropic which rate is found to be just and reasonable and is hereby established as a just and reasonable rate to be charged.

IT IS FURTHER ORDERED that as to the other matters involved the complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th  
day of February, 1914.

John W. Eastman  
H. D. Lybrand  
Chas. Gordon  
Max Thelen  
Edwin O. Edgerton

Commissioners.